

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTHERN TEXAS
HOUSTON DIVISION
(Re: CA H-12-3086)

FILED
FEB 15 2013
David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA,)
)
) NOTICE OF APPEAL
v.)
)
THOR ALEXANDER MORRIS,) CRIMINAL NO. H-10-512-1
Petitioner.)
_____)

Notice of Appeal

Notice is hereby given that Thor Alexander Morris in the above named 28 U.S.C. §2255 action, hereby appeals to the United States Court of Appeals for the Fifth Circuit from an Order of Dismissal entered in this action on the 17th of January, 2013.

In Forma Pauperis

Petitioner is authorized to proceed in forma pauperis on appeal under Fed. R. App. P. 24(a)(3), as the District Court has twice determined that Petitioner is financially unable to obtain an adequate defense in the underlying criminal case. (See D.E. #4 and D.E. #46).

Timeliness of Notice

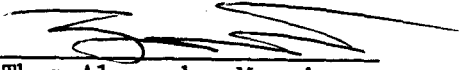
On 01/28/2013 Petitioner filed a Motion to Alter or Amend Judgment pursuant to Fed. R. Civ. P. 59(e).

"Fed. R. App. P. 4(a)(4) provides that certain post-judgment motions extend the time for filing a notice of appeal until 30 days after the order disposing of such motion. A timely Rule 59(e) motion filed within 28

days of a final judgment will extend this window for filing a notice of appeal." Overstreet v. Joint Facilities, Mgmt. L.L.C., 2012 U.S. App. Lexis 23064 (5th Cir. 2012).

As Petitioner's Rule 59(e) motion was filed within 28 days of the final judgment and is still pending, this Notice of Appeal should be considered timely.

Respectfully Submitted,
This 8th day of February, 2013.


Thor Alexander Morris
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